

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 960 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL
and
Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

MANSING KHATAR NAYAK

Versus

STATE OF GUJARAT

Appearance:

MR KR RAVAL for Appellant
MR HL JANI, APP for Respondent No. 1

CORAM : MR.JUSTICE M.C.PATEL
and
MR.JUSTICE A.L.DAVE

Date of decision: 14/03/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.C.PATEL)

1. The appellant was the accused in Sessions Case No.54 of 1993 before the Additional Sessions Judge, Godhra who, by his judgment and order dated 9th August, 1993 convicted him of the offence punishable under Section 302 of the I.P.C. and sentenced him to life imprisonment and to a fine of Rs.500/-, in default, imprisonment for three months.

2. The charge against the appellant was that he killed his wife by giving stick blows. The incident was alleged to have occurred at about 11.00 p.m. on 17th November, 1992 in the sim of village Dipapura, Taluka Jambughoda, District Panchmahals.

3. The evidence of the complainant Ishwarbhai (P.W.2) shows that the appellant and his wife were employed by him as agricultural labourers and the wife of the appellant also happened to be his aunt. At about 9 o'clock in the night on 17th November, 1992, the appellant and his wife left his place to go home. Soon thereafter, his brother Ramsingh came running to him and told him that a quarrel was in progress and Bai Punji's cries were heard. He, therefore, said that they may go and separate them. When they went near the 'kotar' they found the dead body of Bai Punji. They sent for police patel and in the morning, they went to the Jambughoda Police Station and he lodged the complaint.

4. Ramsingh Jaisinghbhai (P.W.4) deposed that the incident occurred at about 11 o'clock in the night on 17th November, 1992. He had gone to answer the call of nature. When he went near the kotar, he heard shouts of quarrel between his aunt Punji and her husband Mansingh, the appellant. Bai Punji was shouting 'I am dying'. Ramsingh went to fetch his brother Ishwarbhai and then he and Ishwarbhai went there but the accused had already left and the dead body of Punji was lying there.

5. It is also in evidence that a search of the house of the accused was made and a stick was recovered. The report of the Forensic Science Laboratory shows that the stick was stained with the blood of the same group as that found on the blouse which the deceased was wearing.

6. The evidence of Dr. Bharat Vyas (P.W.1) who performed the post-mortem shows that there were numerous injuries on the abdomen, hands, legs, thighs, face and the back of the victim. His evidence also shows that the liver and spleen had been ruptured and, according to his opinion, the cause of death was haemorrhage and shock

following the rupture of the liver and the spleen. He said that the injuries were caused by an object like a stick and denied the suggestion that it could have been caused by a fall from a 50 feet tall tree. There is no reason to doubt and disbelieve the evidence of Ishwarbhai and Ramsingh. That evidence clearly shows that the appellant and his wife left the residence of Ishwarbhai together and soon there was a quarrel and then the shouts of quarrel and the death cries of the deceased were heard by Ramsingh. The recovery of the blood stained stick from the house of the appellant also implicates him. Thus, there is no doubt that it was the appellant who had killed his wife. The learned counsel for the appellant made a feeble attempt to bring the case under Section 304 Part I but the injuries noted in the post-mortem report clearly show that the victim had been mercilessly beaten and there is no reason to alter the conviction from one under Section 302 to that of one under Section 304 Part I.

7. The result is that there is no substance in the appeal and the same is dismissed.

(M.C. Patel, J.)

(A.L. Dave, J.)

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